

**In the High Court at Calcutta
Commercial Division
Original Side**

**CS-COM/84/2024
[OLD NO. CS/164/2017]**

NESTLE INDIA LIMITED
VS
EASTERN COALFIELDS LIMITED

**BEFORE:
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : February 26, 2026.**

Appearance:

Mr. Rohit Mukherji, Adv.
Mr. Pankaj Agarwal, Adv.
Ms. Champa Pal, Adv.
...for the petitioner

Mr. Sarosij Dasgupta, Adv.
Ms. Akanksha Mukherjee, Adv.
Mr. Pradipta Basu, Adv.
Mr. S. Banerjee, Adv.
Ms. Madhumanti Chakraborty, Adv.
...for the defendant

The Court : The last order dated **February 5, 2026** speaks for itself.

Parties jointly submitted that costs has already been paid, as directed therein.

It is submitted on behalf of the plaintiff that in view of the intervention of a weekend, there was one-day delay in payment of costs. As such, the department had not accepted the evidence on affidavit.

For the ends of justice, delay stands condoned. The evidence on affidavit shall be filed before the department in course of the day by the plaintiff.

To expedite the matter, witness action shall be held through commission.

Accordingly, **Mr. Nilotpal Chatterjee**, learned Advocate, a Member of the Bar, is appointed as the **Commissioner** to hold the commission.

Before the learned Commissioner, the plaintiff's witness would have to depose on the evidence on affidavit filed by the plaintiff and then the defendant shall proceed to cross-examine the witness of the plaintiff.

Mr. Sarosij Dasgupta, learned Advocate appearing for the defendant submits that the cross examination by the defendant would not spread over more than **five sessions**.

In view of the above, for the first session, while tendering the evidence on affidavit, remuneration of the learned Commissioner shall be borne by the plaintiff and then the next **four sessions** shall be borne by the defendant.

The remuneration of the Commissioner shall be **Rs.25,000/-** for each session. In addition, the secretarial costs and expenses shall be fixed by the learned Commissioner and shall be paid by the defendant.

After the commission is finished, the learned Commissioner shall file report before this Court.

During commission, the original records shall be produced under the supervision and in presence of an officer in the Original Side to be delegated by the Registrar, Original Side.

After the exercise is over, the parties shall be at liberty to mention the matter for inclusion in the list for further direction, upon notice to each other.

(ANIRUDDHA ROY, J.)

Sbghosh